

Serial No. 10/649,870
Reply to Final Office Action of June 8, 2005
Docket No.: H054165.0002US0

REMARKS

Responsive to the Office Action mailed June 8, 2005, Applicant has studied the Examiner's comments and the cited art. Claims 29 – 33, 36 – 46, and 48 – 52 are currently pending. In view of the following remarks, Applicant respectfully submits that the application is in condition for allowance.

Claim Amendments

Applicant has cancelled claims 34, 35, 47, and 48.

Applicant has amended claims 29, 31, 36, 40, and 42 – 44 in order to more clearly claim various embodiments of the Applicant's invention, and in some cases to correct grammatical errors.

Applicant has added new claims 49 – 52 to more clearly claim features of the disclosed invention. No new matter has been added. Support for the new claims is found in the Applicant's August 27th 2003 disclosure.

Claim Rejections Under 35 U.S.C. § 112

The Examiner rejected Claims 35 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement because the Examiner alleges that the “fail open valve” limitation of Claim 35 is not sufficiently disclosed in the Applicant's original disclosure. Although the Applicant respectfully disagrees with the Examiner's determination, Applicant has cancelled Claim 35 in order to further the issuance of the remaining Claims.

Claim Rejections Under 35 U.S.C. § 102

Claims 43, 46 and 47 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cavallero, U.S. Patent No. 5,067,394. An anticipation rejection under 35 U.S.C. § 102(b) requires that the reference teach every element of the claim. See Manual of Patent Examining Procedure (“MPEP”) § 2131 (8th ed., Rev. 2, May 2004). Applicant respectfully traverses the Examiner's rejections.

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The Examiner rejected Claim 43 as anticipated by Cavallero. Claim 43 requires two valves within a conduit system, the conduit system is coupled to the interior of a structure, the first valve is interposed between the structure's interior and the second valve, the second valve is interposed between the first valve and an exhaust apparatus. As claimed, the two valves are arranged in series. However Cavallero fails to disclose or suggest such limitations. The exhaust register 12 of Cavallero is not interposed between the structure's interior and the vacuum inlet 13. Additionally, the vacuum inlet 13 of Cavallero is not interposed between the exhaust register 12 and an exhaust apparatus. Nor does Cavallero disclose or suggest that the vacuum inlet 12 is interposed between the structure's interior and the exhaust register 12, and that the exhaust register 12 is interposed between the vacuum inlet and an exhaust apparatus. Therefore, Cavallero fails to anticipate all of the elements of Claim 43. For at least these reasons, Applicant respectfully submits that Claim 43 is allowable.

New Claim 49 depends from Claim 43. Because Applicant believes that Claim 43 is allowable, for at least this reason, new Claim 49 is also allowable. Additionally, new Claim 49 requires that actuation of the exhaust apparatus and opening of the second valve causes a vacuum force within the conduit system, which causes the first valve to open. Cavallero fails to disclose or suggest all the limitations of new Claim 49.

The Examiner rejected Claim 46 as anticipated by Cavallero. Claim 46 requires an exhaust apparatus be coupled to a conduit system, and a booster apparatus within the conduit system, the booster apparatus is interposed between the interior of the structure and the exhaust apparatus, wherein when the exhaust apparatus is actuated, the booster apparatus is activated. As claimed, Claim 46 requires both the actuation of an exhaust apparatus and the activation of the booster apparatus. However Cavallero fails to disclose or suggest such limitations. Cavallero discloses a single vacuum apparatus, the central vacuum unit 11, and does not disclose or suggest both the actuation of an exhaust apparatus and the activation of the booster apparatus. Therefore, Cavallero fails to anticipate all of the elements of Claim 46. For at least these reasons, Applicant respectfully submits that Claim 46 is allowable.

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The Examiner rejected Claim 47 as anticipated by Cavallero. Although the Applicant respectfully disagrees with the Examiner's determination, the Applicant has cancelled Claim 47 in order to further the issuance of the remaining Claims.

For at least these reasons, Applicant respectfully submits that Claims 43, 46, and 49 are allowable.

Claim Rejections Under 35 U.S.C. § 103

A rejection under 35 U.S.C. § 103(a) requires that the Examiner establish a *prima facie* case of obviousness. The Examiner must show that 1) there is some suggestion or motivation, to modify the reference or to combine reference teachings; 2) there is a reasonable expectation of success; and 3) the prior art references teach or suggest all the claim limitations. Moreover, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. See MPEP § 2142 (8th ed., Rev. 2, May 2004) (citing *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991)).

Rejection of Claims 29, 30, 34, 36 – 38, and 48 under 35 U.S.C. § 103(a) over Cavallero in view of Landais (US Patent No. 6,384,724)

The Examiner rejected Claims 29, 30, 34, 36 – 38, and 48 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Landais. The Applicant respectfully traverses the Examiner's rejections.

Although the Applicant respectfully disagrees with the Examiner's determination, the Applicant has amended Claim 29 to include the limitation of Claim 34 and has cancelled Claim 34, in order to further the issuance of the Claim 29. As amended, Claim 29 now requires at least two valves within a conduit system, the conduit system is coupled to the interior of a structure, the first valve is interposed between the structure's interior and the second valve, the second valve is interposed between the first valve and an exhaust apparatus. As previously discussed Cavallero does not disclose this limitation. Additionally, Landais does not disclose this limitation. As such for at least the same reasons as identified above in regard to Claim 43, Claim 29 is believed to be in condition for allowance. Claims 30 and 36 – 38 all depend from Claim

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29. Because the Applicant believes that Claim 29 is allowable, for at least these reasons Claims 30 and 36 – 38 are also believed to be in condition for allowance.

Additionally, Claim 36 requires an exhaust apparatus be coupled to a conduit system, and a booster apparatus within the conduit system, the booster apparatus is interposed between the interior of the structure and the exhaust apparatus, wherein when the exhaust apparatus is actuated, the booster apparatus is activated. As previously discussed Cavallero does not disclose this limitation. Additionally, Landais does not disclose this limitation. As such for at least the same reasons as identified above in regard to Claim 46, Claim 36, prior to the amendment of Claim 29, is believed to be allowable.

Claims 34 and 48 have been cancelled; therefore the Examiner's rejections are moot in view of the claims' cancellations.

Rejection of Claims 31 – 33 under 35 U.S.C. § 103(a) over Cavallero in view of Landais and in further view of Hartman et al. (US Patent No. 6,380,852)

The Examiner rejected Claims 31 – 33 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Landais and in further view of Hartmann et al. The Applicant respectfully traverses the Examiner's rejections. The Examiner has not provided any motivation to combine the references in order to teach the limitations of Applicant's Claims 31 – 33. Nor do the three cited references suggest or disclose all of the limitations. Additionally, Claims 31 – 33 all depend from presently amended Claim 29, which as stated previously is believed to be in condition for allowance. Because Claims 31 – 33 all ultimately depend from Claim 29, Claims 31 – 33 are also believed to be in condition for allowance.

Rejection of Claims 35 under 35 U.S.C. § 103(a) over Cavallero in view of Landais and in further view of Ramsey (US Patent No. 5,992,532)

As previously indicated, Applicant has cancelled Claim 35, and therefore the Examiner's rejections are moot. However, Applicant respectfully traverses the Examiner's rejection of Claim 35. The Examiner has not provided any motivation to combine the references in order to teach the limitations of Claim 35. Nor do the three cited references suggest or disclose all the limitations of Claim 35.

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Rejection of Claims 39 and 40 under 35 U.S.C. § 103(a) over Cavallero in view of Landais and in further view of McKenzie (US Patent No. 5,855,510)

The Examiner rejected Claims 39 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Landais and in further view of McKenzie. The Applicant respectfully traverses the Examiner's rejections: The Examiner has not provided any motivation to combine the references in order to teach the limitations of Applicant's Claims 39 and 40. Nor do the three cited references suggest or disclose all the limitations. Additionally, Claims 39 and 40 all ultimately depend from presently amended Claim 29, which as stated previously is believed to be in condition for allowance. Because Claims 39 and 40 all ultimately depend from Claim 29, Claims 39 and 40 are also believed to be in condition for allowance.

Rejection of Claim 41 under 35 U.S.C. § 103(a) over Cavallero in view of Landais and in further view of Roby (US Patent No. 5,691,703)

The Examiner rejected Claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Landais and in further view of Roby. The Applicant respectfully traverses the Examiner's rejections. The Examiner has not provided any motivation to combine the references in order to teach the limitations of Applicant's Claim 41. Nor do the three cited references suggest or disclose all of the limitations. Additionally, Claim 41 depends from presently amended Claim 29, which as stated previously is believed to be in condition for allowance. Because Claim 41 depends from Claim 29, Claim 41 is also believed to be in condition for allowance.

Rejection of Claim 42 under 35 U.S.C. § 103(a) over Cavallero in view of Hartman

The Examiner rejected Claim 42 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Hartman. However, the Examiner included Landais in its rejection of Claim 42. The Applicant is confused by the rejection associated with Claim 42. Therefore, Applicant seeks clarification of the Examiner's rejection of Claim 42, as well as an opportunity to respond after Examiner's clarification.

Rejection of Claim 44 under 35 U.S.C. § 103(a) over Cavallero in view of Miller (US Patent No. 3,884,133)

The Examiner rejected Claim 44 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Miller. The Applicant respectfully traverses the Examiner's rejections.

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Although the Applicant respectfully disagrees with the Examiner's determination, the Applicant has amended Claim 44 to more clearly identify the claimed invention. Claim 44 has been amended to include "whereby the first valve of that zone opens." The Examiner has not provided any motivation to combine the references in order to teach the limitations of Applicant's Claim 44. Nor do Miller and Cavallero suggest or disclose all of the limitations. Rather, Miller discloses that the branch damper 24M and the branch damper 24E for any given zone operate in a reverse relationship, with the branch damper 24M for a zone being in the open position, while that zone's branch damper 24E is in the closed position, and vice versa. As such, Miller and Cavallero do not teach all of Applicant's claim limitations. Additionally, attempting to include the Applicant's claim limitation in Cavallero in view of Miller, would result in an inoperable system. Hence, amended Claim 44 is believed to be in condition for allowance. Claim 45 depends from Claim 44. Because the Applicant believes that Claim 44 is allowable, for at least this reasons Claim 45 is also believed to be in condition for allowance.

Rejection of Claim 45 under 35 U.S.C. § 103(a) over Cavallero in view of Fuss et al. (US Patent No. 6,769,250)

The Examiner rejected Claim 45 under 35 U.S.C. § 103(a) as being unpatentable over Cavallero in view of Fuss et al ("Fuss"). The Applicant respectfully traverses the Examiner's rejections. The Examiner has not provided any motivation to combine the references in order to teach the limitations of Applicant's Claim 45. There is no suggestion in either Cavallero or Fuss for their combination. Nor has the Examiner provided a reason or motivation for their combinations. Additionally, neither Cavallero nor Fuss alone or in combination suggest or disclose all of the limitations. Additionally, Claim 45 depends from presently amended Claim 44, which as stated previously is believed to be in condition for allowance. For at least the reason that Claim 45 depends from Claim 44, Claim 45 is also believed to be in condition for allowance.

New Claims

Applicant has added new claims 49 – 52. No new matter has been introduced. New Claim 49 depends from Claim 43 and requires the further limitation that opening of the second valve causes a vacuum force within the conduit system causing the first valve to open. New

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Claim 50 is an independent claim that includes the limitation of first and second valves being arranged so that the first valve is interposed between the interior of the structure and the second valve and the second valve is interposed between the first valve and the exhaust apparatus. New Claim 51 depends from Claim 50 and includes the further limitation of actuating visual, audible, and haptic interface system alerts, in order to alert as to the presence of the airborne elements within the structure. New Claim 52 is an independent claim that includes the limitation of a booster apparatus within the conduit system, the booster apparatus being interposed between the interior of the structure and the exhaust apparatus. The new claims are believed to be allowable over the prior art as previously discussed herein in reference to similar limitations in other pending claims.

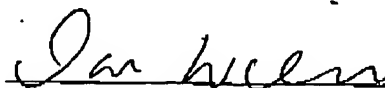
For at least these reasons, Applicant respectfully submits that Claims 29 – 33, 36 – 46, and 48 - 52 are allowable, and asks that the Examiner withdraw his rejections.

CONCLUSION

Applicant respectfully submits that all issues and rejections have been adequately addressed, that all claims are allowable, and that the case should be advanced to issuance.

If the Examiner has any questions or wishes to discuss the claims, Applicant encourages the Examiner to call Tara M. Williams at the telephone number indicated below.

Respectfully submitted



Tara M. Williams, Reg. No. 53,777

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AKIN GUMP STRAUSS HAUER & FELD LLP
1111 Louisiana, 44th Floor
Houston, Texas 77002
Telephone: (713) 220-5852
Facsimile: (713) 236-0822